IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1001 OF 1997

The Bharatiya Friends Co-op.
Housing Society Limited ... Petitioner

V/s.

Bombay Labour Union & Ors. ... Respondents

a/w
WRIT PETITION NO.1180 OF 1997

The Bharatiya Friends Co-op.
Housing Society Limited ... Petitioner

V/s.

Bombay Labour Union & Ors. ... Respondents

Mr.R.S. Pai for Petitioner
None for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **MARCH 28, 2005**

ORAL JUDGMENT:

. These Petitions challenge the judgment and order of the Labour Court in Complaint (ULP) Nos.121 of 1990 and 154 of 1990. The Labour court has held that the Petitioner which is a cooperative housing society is an industry and on this basis, it proceeded with the complaints. The Labour Court has allowed the complaints since it was of the view that the Petitioner had committed unfair labour practice under Item 1(a), (b), (d) and (e) of Schedule IV of the MRTU & PULP Act. Aggrieved by this decision, the Petitioner filed

revision application (ULP) No.136 of 1995. The Industrial Court confirmed the finding of the Labour court that the Petitioner-Society was an industry by placing reliance on the judgment in the case of *Bangalore Water Supply & Sewerage Board v/s. A. Rajappa & Ors.,* **AIR 1978 SC 548**.

2. These Petitions challenge both these orders. Admittedly, the Petitioner-Society is exclusively a housing society. Although there are 49 flats in this society and several employees such as watchmen and liftmen are engaged, the Petitioner contends that a housing society cannot be termed as an industry as defined under section 2(j) of the Industrial Disputes Act.

3. This issue is no longer *res integra.* In the case of *Management of SOM Vihar Apartment Owners Housing Maintenance Society Ltd. v/s. Workmen C/o. Indian Engineering and General Mazdoor,* **2001 LLR 599,** the Apex Court after considering the judgment in the case of *Bangalore Water Supply* (supra), *Kamani Properties Ltd. v/s State of West Bengal & Ors*., **AIR 1990 SC 2047** and *T.K. Ramesan v/s. A.O. Thomas, Secretary, Maintenance Committee,* **1995 Lab.I.C. 813** held that a housing society does not fall within the purview of the term ‘industry’ as defined under section 2(j) of the

Industrial Disputes Act. Under section 3(7) of the MRTU & PULP Act, ‘industry’ has been defined in relation to which the Central Act, that is, the Industrial Disputes Act applies, as one which is defined under clause (j) of section 2 of the Central Act. Since a cooperative society is not an industry within the meaning of section 2(j) of the Industrial Disputes Act, the provisions of the MRTU & PULP Act cannot apply to the Petitioner-Society.

4. The Petitions are, therefore, allowed. Rule made absolute. No order as to costs.